



Plaintiff is directed to respond to Defendants' request herein, and to the Court's Order at Doc. 53, by January 24, 2023, and inform the Court if he wishes to continue this action.

Should Plaintiff fail to respond by January 24, 2023, the Court will dismiss this action with prejudice pursuant to Federal Rule of Civil Procedure 41(b).

Defendants are directed to mail a copy of this Order and a copy of the Court's Order at Doc. 53 to Plaintiff as soon as practicable and file proof of service on the docket.

January

SO ORDERED.

Philip M. Halpern
United States District Judge

Dated: White Plains, New York
January 13, 2023

Via ECF & Email to: [HalpernNYSDChambers@usdcny.gov](#)

Hon. Philip M. Halpern
United States District Court Judge
United States District Court, Southern District of New York
300 Quarropas Street, Room 530
White Plains, New York 10601

Re: Van Orden, III v. City of Port Jervis et al
Docket No: 20 Civ 7207 (PMH)
Venue: United States District Court, Southern District of New York
Our File: 129.024

Dear Judge Halpern:

Our office represents the Defendants City of Port Jervis, Officer Stanley Buczek (Badge No. 0396), Officer Andrew Haniuk (Badge No. 0353), Officer Christopher J. Mehedin (Badge No. 0301) and Officer Thomas J. Osowick (Badge No 0303), in the above referenced action, filed by Plaintiff Robert Allen Van Orden, III, *pro se*.

At this time, I write in furtherance of my letter dated December 15, 2022 and the Court's December 16, 2022 endorsement of same, which directed the plaintiff to respond by December 30, 2022. As of this writing, we have not received, either in our office mail or filed to ECF, any response from Mr. Van Orden as required by the Court.

It is respectfully requested that the Court dismiss the instant action, pursuant to FRCP 41(b). It is further requested that the action be dismissed with prejudice, as plaintiff was questioned regarding a prejudice dismissal at his deposition, and expressly stated his agreement to same. It is respectfully submitted that a dismissal with prejudice is warranted, as our clients should not have to continue to incur the time and expense to defend a meritless action which plaintiff has declined to prosecute; not now, and not in the future.

If the Court will not dismiss the matter with prejudice, we are requesting a pre-motion conference to seek leave to file a dispositive motion to dismiss the matter with prejudice, or in the alternative, leave from the Court to file such a motion.

Thank you for the Court's attention to this matter.

Very truly yours,

SCHWAB & GASPARINI PLLC

By: 

MICHAEL G. DEL VECCHIO
Partner

MGD/ms

cc: **Via Regular First Class Mail**
Mr. Robert Allen Van Orden III
Coxsackie Correctional Facility
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